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Apollo Enterprise Solutions, Inc.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

DEBT RESOLVE, INC.

Plaintiff,

v.

APOLLO ENTERPRISE SOLUTIONS,
LLC,

Defendant.

AFFIDAVIT OF JENNIFER A.
TRUSSO IN SUPPORT OF
DEFENDANT'S MOTION TO
DISMISS FOR LACK OF
PERSONAL JURISDICTION
AND IMPROPER VENUE

[F.R.C.P. 12(b)(2) and 12(b)(3)]

Civil Action No. 07-103

**AFFIDAVIT OF JENNIFER A. TRUSSO IN SUPPORT OF DEFENDANT'S
MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION AND
IMPROPER VENUE**

I, Jennifer A. Trusso, declare as follows:

I am a member of Stradling Yocca Carlson & Rauth, attorneys of record for
Defendant Apollo Enterprise Solutions, LLC ("Apollo") in the above-entitled

action. I make this declaration in support of Apollo's Motion to Dismiss For Lack of Personal Jurisdiction and Improper Venue. I make this declaration of my personal knowledge and, if called and sworn as a witness, I could and would competently testify thereto.

1. Attached hereto as Exhibit A is a true and correct copy of the complaint filed by Apollo in the United States District Court, Central District of California.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on February 13, 2007 at Irvine, California.



Jennifer A. Trusso

Exhibit A

FILED

1 JAN P. WEIR, STATE BAR NO. 106652
2 STEVEN M. HANLE, STATE BAR NO. 168876
3 JENNIFER A. TRUSSO, STATE BAR NO. 198579
4 STRADLING Yocca CARLSON & RAUTH

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CIVIL COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

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8 Attorneys For Plaintiff
9 APOLLO ENTERPRISE SOLUTIONS, LLC

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12 APOLLO ENTERPRISE
13 SOLUTIONS, LLC,
14 a Delaware corporation,

Plaintiff,

v.

16 DEBT RESOLVE, INC.,
17 a Delaware corporation,

Defendant.

Civil Case No:

SACV07- 106 AHS (JTLx)

COMPLAINT FOR
DECLARATORY JUDGMENT OF
PATENT INVALIDITY AND NON-
INFRINGEMENT

28 STRADLING Yocca
CARLSON & RAUTH
ATTORNEYS
NEWPORT BEACH

COMPLAINT FOR DECLARATORY JUDGMENT

DOCSOC/1207691-1/019999-0000

1 For its Complaint, Plaintiff Apollo Enterprise Solutions, LLC ("Apollo")
2 alleges against Defendant Debt Resolve, Inc. ("Debt Resolve") as follows:
3

4 **JURISDICTION AND VENUE**
5

6 1. This civil action is for a declaratory judgment that Apollo does not
7 infringe U.S. Patent Nos. 6,330,551 ('551 patent) and 6,954,741 ('741 patent),
8 assigned to Debt Resolve. A case or controversy exists because, on January 8,
9 2007, Debt Resolve filed a complaint against Apollo in United States District
10 Court, District of New Jersey, for patent infringement of the '551 patent and the
11 '741 patent. However, Apollo has no contacts of any kind with the District of New
12 Jersey and will be seeking a dismissal or transfer of such action for lack of
13 personal jurisdiction and improper venue.
14

15 2. This Court has jurisdiction over the subject matter of this action
16 pursuant to the Declaratory Judgment Act, 28 U.S.C. §§2201-2202; the United
17 States Patent Laws, 35 U.S.C. §§ 1 et seq.; and 28 U.S.C. §§ 1331 and 1338.
18

19 3. Venue is proper in this judicial district pursuant to 28 U.S.C.
20 §§1391(b) and (c) in that, Apollo and, on information and belief, Debt Resolve do
21 business in this district, and a substantial part of the events giving rise to the claims
22 hereunder occurred in this district.
23

24 4. On information and belief, Debt Resolve conducts business in the
25 State of California, including in this judicial district, and has alleged patent
26 infringement in this judicial district.
27
28

THE PARTIES

5. Plaintiff Apollo is organized under the laws of the State of Delaware, with its principal place of business at 2111 Business Center Drive, Suite 204, Irvine, CA. Apollo is engaged in the development and marketing of automated receivables management and debt collection solutions.

6. On information and belief, Defendant Debt Resolve is a corporation organized under the laws of the State of New York, with its principal place of business at 707 Westchester Avenue, Suite L-7, White Plains, New York.

7. On information and belief, Debt Resolve is engaged in the marketing, advertising, selling, and distribution of on-line collection of consumer debt products.

FIRST CLAIM FOR RELIEF

(Patent Invalidity and/or Non-Infringement of the '551 Patent)

8. Apollo incorporates by reference, as part of this cause of action, the allegations contained in paragraphs 1 through 7 above.

9. Apollo has not infringed, is not infringing, and has not contributed to or induced others to infringe any valid claim of the '551 patent as properly construed.

10. Upon information and belief, the claims of the '551 patent are invalid for failure to meet one or more of the requirements of patentability of United States Code, Title 35, including, without limitation, those requirements set forth in 35

1 U.S.C. §§ 101, 102, 103 and/or 112, and the rules, regulations and laws pertaining
2 thereto.

3
4 11. Apollo is entitled to an order from the Court that it is not and has
5 never directly infringed the '551 patent, and is not and has never contributed to or
6 induced infringement of any valid claim of the '551 patent as properly construed.
7 Apollo is also entitled to an order from the Court that some or all of the claims of
8 the '551 patent are invalid or otherwise unenforceable.

9
10 **SECOND CLAIM FOR RELIEF**

11 (Patent Invalidity and/or Non-Infringement of the '741 Patent)

12
13 12. Apollo incorporates by reference, as part of this cause of action, the
14 allegations contained in paragraphs 1 through 7 above.

15
16 13. Apollo has not infringed, is not infringing, and has not contributed to
17 or induced others to infringe any valid claim of the '741 patent as properly
18 construed.

19
20 14. Upon information and belief, the claims of the '741 patent are invalid
21 for failure to meet one or more of the requirements of patentability of United States
22 Code, Title 35, including, without limitation, those requirements set forth in 35
23 U.S.C. §§ 101, 102, 103 and/or 112, and the rules, regulations and laws pertaining
24 thereto.

25
26 15. Apollo is entitled to an order from the Court that it is not and has never
27 directly infringed the '741 patent, and it is not and has never contributed to or
28 induced infringement of any valid claim of the '741 patent as properly construed.

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COMPLAINT FOR DECLARATORY JUDGMENT

1 Apollo is also entitled to an order from the Court that some or all of the claims of
2 the '741 patent are invalid or otherwise unenforceable.

3
4 **PRAYER**

5
6 **WHEREFORE, Plaintiff Apollo prays for and requests:**

7
8 1. An order from the Court that Apollo is not and has never directly
9 infringed the '551 patent, and is not and has never contributed to or induced
10 infringement of any valid claim of the '551 patent as properly construed.

11
12 2. An order from the Court that some or all of the claims of the '551
13 patent are invalid or otherwise unenforceable.

14
15 3. An order from the Court that Apollo is not and has never directly
16 infringed the '741 patent, and is not and has never contributed to or induced
17 infringement of any valid claim of the '741 patent as properly construed.

18
19 4. An order from the Court that some or all of the claims of the '741
20 patent are invalid or otherwise unenforceable.

21
22 5. An award to Apollo of its costs and attorneys' fees in this action.

23
24 6. All other relief as this Court deems just and proper.

1 Dated: January 26, 2007

STRADLING Yocca CARLSON & RAUTH
A Professional Corporation

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5 By 

6 Jan P. Weir
7 Steven M. Hanle
8 Jennifer A. Trusso
9 Attorneys for Plaintiff
10 Apollo Enterprise Solutions, LLC
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